

CONTROL NO: 99-01

JUSTIFICATION REVIEW DOCUMENT FOR OTHER THAN FULL AND OPEN COMPETITION

Program/Equipment: N/A

Authority: FAR 6.302-2 and U.S.C. 2304(c) (1)

Amount \$400,000

Prepared by:

Typed Name: Tony Oby

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Title: Civil Engineer/Negotiator

Date: 9/16/98

Procuring Contracting Officer:

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Date Reviewed: 9/16/98

Technical Representative:

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Title: Chief, Cost Contracts Admin Section

Date Reviewed: 16 Sep 98

Requirements Representative:

Typed Name: Bruce Ware

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Title: Chief, Contract Admin Branch

Date Reviewed: 9/16/98

REVIEWS: I have reviewed this justification and find it adequate to support other than full and open competition.

Program Manager

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Date: 8 Oct 22

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Date: 28 Oct 98

JUSTIFICATION AND APPROVAL OR OTHER THAN FULL AND OPEN COMPETITION

JUSTIFICATION

1. Contracting Activity: U.S. Army Corps of Engineers—Baltimore, District: Baltimore, MD.

2. Description of Action: Authority is requested to increase the capacity of Contract DACW31-95-D-0097, ID/IQ CONTRACT FOR THE CONTAINMENT STRUCTURE REMOVAL AND/OR UPGRADE, VARIOUS LOCATIONS WITHIN EPA REGIONS I, II, AND III, a multi-year, cost-plus-fixed fee/firm-fixed price contract awarded to Earth Tech Remediation of Richmond, VA, in the estimated amount of \$400,000. The delivery order would cause the total delivery orders issued under this contract to exceed the contractual limit of \$2,500,000.

3. Description of Supplies/Services: Contract DACW31-95-D-0097 is an environmental remedial action contract for removal of contaminated above ground storage tanks (AST's) and underground storage tanks (UST's) in Environmental Protection Agency (EPA) Regions I, II, and III. The contract was awarded on 21 Sep 95 in the amount of \$2.5M, with a minimum guarantee of \$10K per year and a contract performance period of one base year and two option years.

4. Authority Cited: In accordance with 10 U.S.C. 2304(c)(1) and as implemented by FAR 6.302-2, full and open competition is not required when an unusual and compelling urgency exists.

5. Reason for Authority Cited: Two proposed delivery orders for removal and installation of UST's at Bolling Air Force Base, Washington, DC, and Letterkenny Army Depot, Letterkenny, PA, were negotiated under the subject contract in the amounts of \$89,506.12 and \$711,764.43, respectively. Subsequent emergent requirements substantially changed the scopes of work for the proposed delivery orders, changing their costs to \$217,358.18 and \$378,150.00, respectively. Whereas the original delivery orders fell within the \$2.5M contract threshold at the time of their negotiation, the amended delivery orders exceeded the contract limit. Other delivery orders (including modifications) totaling \$2,407,569.38 were awarded under the contract during the lengthy definitization process for the two delivery orders. Federal regulations governing containment structures mandate that military installations remove/upgrade all containment structures by the end of CY97. Award to another source would jeopardize the timely completion of the required actions. The government and Earth Tech have invested considerable resources toward conducting site visits and developing the scopes of work,

proposals, and estimates for the two delivery orders. Definitization of the scopes of work required several months to complete, necessitating site visits by Earth Tech and government representatives as well as on-going discussions to identify all requirements and develop detailed scopes. Earth Tech has performed similar work at both installations and has a detailed knowledge of each facility, and has previously satisfied security and access requirements. Initiating a procurement action under competitive requirements would prevent timely completion of the work as mandated by 40 CFR subpart (F).

6.Efforts to Obtain Competition: Contract DACW31-95-D-0097 was one of three multiple awards for the upgrade/removal of USTs: Contract DACW31-95-D-0096 was awarded to Environmental Preservation Associates of Bethlehem, PA, and contract DACW31-95-D-0098 was awarded to Radian International LLC of Rockville, MD. The three contracts were awarded on 21 Sep 95 in the amount of \$2.5M each, with a minimum guarantee of \$10K per year and a contract performance period of one base year and two option years. Delivery orders exceeding the minimum guarantee were awarded for each contract under the present option period. Award of delivery orders to Environmental Preservation Associates has been held in abeyance pending resolution of a novation attempt. Radian International has been awarded 13 delivery orders compared to 14 for Earth Tech.

7. Actions to Increase Competition: Contract DACW31-95-D-0097 was the agency's first attempt at a construction/services combination contract. It was written as a cost-plus-fixed fee/firm-fixed price contract. With new EPA mandates to remove/upgrade USTs by 1998, this contract was developed to supplement the larger cost contracts (i.e., Total Environmental Restoration Contract, "TERC", and Pre-Remedial Action Contract "PRAC") for quick removal of old USTs not requiring extensive remediation. New contracts are being developed with projected award by Apr 98.

8.Market Survey: A formal market survey will not be conducted for the required work. It was determined that Earth Tech was the only reasonable source to perform this work as duplication of effort would not be cost effective and would result in unacceptable delays in fulfilling EPA's requirements. Costs were audited as part of the process in managing contract DACW31-97-D-0097.

9.Interested Sources: This procurement action will not be advertised in the CBED due to the urgency of the requirement. Earth Tech is already on site and is the only contractor in a position to perform this task within the required time.

10. Other Facts: Earth Tech has invested considerable time and effort toward conducting site investigations and defining scopes of work for the two delivery orders. A new source would have to spend many hours on site visits and scoping in order to gain familiarity and understanding the specific work requirements. Additionally, the Government would have to spend a significant amount of time and effort to bring a new contractor up to speed. The impact of the duplication of contractor's effort is estimated to be \$40,000.00. To date, Earth Tech's performance has been fully satisfactory. The contractor responds quickly to short-fused requirements, providing quality services and support. In addition, award to Radian would jeopardize timely completion due to the recently issued delivery orders to Radian.

11. Technical Certification: I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

Joe Schaefer
Chief, Cost Contracts Admin Section

Date: 16 Sep 98
Signature: [Signature]
Joe Schaefer

12. Requirements Certification: I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge.

Bruce Ware
Chief, Cost Contract Admin Branch

Date: 16 Sept 1998
Signature: [Signature]
Bruce Ware

13. Fair and Reasonable Cost Determination: I hereby determine that the anticipated cost to the Government for this contract action will be fair and reasonable. Negotiations based on independent Government estimate and previous, similar work.

Tony Oby
Civil Engineer/Negotiator

Date: Tony Oby - 10/16/98
Signature: [Signature]
Tony Oby

14. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief

William C. Ryals
Contracting Officer

Date: [Signature]
Signature: 16 Sep 98
William C. Ryals

APPROVAL

Based on the foregoing justification, I hereby approve the procurement of UST removal at Letterkenny Army Depot, PA and Bolling Air Force Base, D.C. on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)(1), subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Date: 98 Nov 02
Signature: Jerome T. Rifkin
JEROME T. RIFKIN
Chief, Contracting Division